

As discussed in previous office actions, Claims 1, 9, 13, 15, 18 and 22 are directed to methods or apparatus that detect burst periods from network activity and analyzing the requisite burst period or burst periods to determine the likelihood of a subsequent burst period. Jitter buffer size is adjusted based on the determined likelihood of the subsequent burst period. As a result of this method, jitter buffer size is adjusted proactively, based on the likelihood of burst periods.

Suzuki is directed to classic methods and apparatus for jitter buffering as discussed in the background to the present application whereby jitter buffer size is adjusted in accordance with measured Jitter to minimize the variance of transmission delay times. The size of the Jitter Buffer is determined in accordance with jitter measured associated with a sample of speech packets. These speech packets are termed a talkspurt to distinguish them from silence (non speech) periods which are not relevant to the calculation of the Jitter Buffer size. The buffer adjustments are made reactively in accordance with the measured jitter in a prior talkspurt period. (There is no detection of a burst period nor any determination of a likelihood of such an event.)

The disclosed methods and apparatus operate with all the network activity required for jitter adjustment and, accordingly, there is not any need to distinguish bursts or burst periods, as to do so would not affect operation of the Suzuki system. Moreover, Suzuki is silent as to burst detection, and therefore, this reference completely fails to address jitter buffer adjustment from the determination of the likelihood of a burst, based on a previous burst.

Based on the above, this reference operates in a completely different manner than the claimed subject matter. Moreover, it fails to show any structure or methods for burst period detection, and utilization of burst period information for jitter buffer adjustment. Accordingly, claims 1, 9, 13, 15, 18 and 22 are neither anticipated nor rendered obvious by Suzuki.

Since claims 1, 9, 13, 15, 18 and 22 are neither anticipated under 35 USC 102(b) by Suzuki, or rendered obvious, claims 2, 4, 5, 10, 14, 17, 19 and 23, respectively dependent thereon, are also allowable for the same reasons. These claims further distinguish the invention over Suzuki.

Claims 11-12 and 20-21 were rejected under 35 USC 103(a) as obvious based on Suzuki in view of Lumelsky (U.S. Patent No. 6,246,672). Claims 11 and 12 are dependent on claim 9 and claims 20 and 21 are dependent on claim 18 and claims 9 and 18 have not been rejected according to 35 USC 103(a). Applicant respectfully asserts that insofar as claims 9 and 18 are deemed allowable due to the above arguments then claims 11-12 and 20-21 respectively dependent thereon are allowable. This is in accordance with *re Fine*, 837 F.2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988) "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious" (MPEP 2143.03).

In light of the above, applicant respectfully asserts that the following argument regarding claims 11-12 and 20-21 is moot but is respectfully included in order to advance the application to allowance.

Claims 11 and 12 are dependent on claim 9, that has been discussed above. That discussion is applicable here.

Claims 20 and 21 are dependent on claim 18 and claim 21, claim 18 has been discussed above. That discussion is applicable here.

Suzuki has been discussed above. That discussion is applicable here.

Examiner has cited Lumelsky to disclose an amplifier in communication with a decompressor. Item 329 as cited by Examiner as a decompressor is a Speech Recognition Engine which recognizes speech commands. Applicant respectfully asserts that the Speech Recognition Engine is not a decompressor

Accordingly, Lumelsky fails to cure the deficiencies associated with Suzuki, and thus, its disclosure of an amplifier and Speech Recognition Engine can not render claims 9 and 18 obvious under 35 USC 103(a).

Since claims 9 and 18 are non-obvious under 35 USC 103(a) in view of Suzuki and Lumelsky, either alone or in combination, claims 11-12 and 20-21, respectively dependent thereon, are also non-obvious under 35 USC 103(a) for the same reasons. These claims further distinguish the invention over this cited art.

Finally, Applicants note the citation of US Patent 5,781,538 to Ganesan et al. (Ganesan) to complete the record.

Should the Examiner have any question or comment as to the form content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be

resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Entry of this paper and allowance of all pending claims, 1-23, is respectfully requested.

Respectfully submitted,

V. Pogrebinsky, et al.

By their Attorneys,  
Welsh & Flaxman,

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by 

Name John L. Welsh

Reg. No. 33,621

Welsh & Flaxman  
2341 Jefferson Davis Highway  
Suite 112  
Arlington, VA 22202  
Tel: (703) 920-1122  
Fax: (703) 920-3399